

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ELLIOTT PAYNE RILEY,  
TDCJ-CID #784600,  
Plaintiff,

v.

ATTORNEY GENERAL FOR THE  
STATE OF TEXAS, *et al.*,  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. H-06-2906

**MEMORANDUM OPINION AND ORDER ON DISMISSAL**

Elliott Payne Riley, TDCJ-CID #784600, a state inmate proceeding *pro se*, files this complaint under 42 U.S.C. § 1983 alleging violations of his civil rights by various named and unnamed State and TDCJ-CID prison officials. He seeks leave to proceed *in forma pauperis*. (Docket Entry No. 2.) The Court has made a reasonable attempt to decipher and understand Riley's largely-unintelligible complaint. Based on a review of the complaint and the Court's records, the Court will dismiss this lawsuit as duplicative and malicious under 28 U.S.C. § 1915(A)(b)(1).

**I. CLAIMS**

Riley claims that he has permanent brain damage, mental impairment, and other medical problems due to the negligence of medical care providers at two or more prison units in 1977. He asserts that prison officials lie to him and tell false stories about him. He asks the Court to excuse his delays in seeking relief because of his mental impairments and his status as an inmate.

## II. ANALYSIS

This is not the first time Riley has filed this or a similar complaint. Riley filed a complaint almost identical to the instant one in *Riley v. Watts*, C.A. No. H-05-4396 (S.D. Tex. 2005). Noting that those claims were duplicative of two other federal complaints, the Court dismissed Riley's complaint on January 19, 2006 as duplicative and malicious under 28 U.S.C. § 1915(e)(2)(B)(i). Riley's similar lawsuit in *Riley v. Attorney General for the State of Texas*, C.A. No. H-05-2851 (S.D. Tex. 2005), was dismissed by the Court under section 1915(e) on January 13, 2006. Riley's duplicative complaint in *Riley v. Attorney General for the State of Texas*, C.A. No. H-05-1997 (S.D. Tex. 2005), was dismissed by the Court on June 15, 2005. In the latter dismissal, the Court noted that Riley filed fourteen other federal lawsuits in the district courts of Texas, five of which were dismissed for want of prosecution and others of which were dismissed as duplicative.

## III. CONCLUSION


For the above reasons, this lawsuit is **DISMISSED WITH PREJUDICE** under 28 U.S.C. § 1915(A)(b)(1) as duplicative and malicious. Any and all pending motions, including the application to proceed *in forma pauperis* (Docket Entry No. 2), are **DENIED AS MOOT**.

Riley is advised that this dismissal counts as his third "strike" under 28 U.S.C. § 1915(g). Riley is now barred from proceeding *in forma pauperis* in any civil action in

federal court unless he is in imminent danger of serious physical injury. *See Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996).

The Clerk will provide a copy of this order to the parties; the TDCJ Office of the General Counsel, P.O. Box 13084, Austin, Texas 78711; and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas, 75702, Attention: Betty Parker.

Signed at Houston, Texas, on this the 29<sup>th</sup> day of September, 2006.

  
\_\_\_\_\_  
KEITH P. ELLISON  
UNITED STATES DISTRICT JUDGE